



The Competitive Carriers Association

Rural Cellular Association

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February 2, 2012

Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: WT Docket No. 06-150; WT Docket No. 11-18; WT Docket No. 11-186; RM-11497;
RM-11592**

Dear Ms. Dortch:

In response to Verizon's January 25, 2012 *ex parte* letter regarding the Commission's forthcoming interoperability NPRM,¹ RCA agrees with Verizon that the FCC should focus the NPRM on quickly resolving the negative consumer and market impacts of AT&T's continued utilization of Band Class 17 in the Lower 700 MHz spectrum band. Collapsing Band Class 17 into Band Class 12 will resolve the single greatest technical impediment to rural and regional carriers deploying 4G LTE services. However, because of AT&T's control over the device market, particularly in the Lower 700 MHz spectrum band, and based on the record developed in the interoperability proceeding,² the FCC must promptly issue an interoperability requirement. Restoring interoperability in the Lower 700 MHz band will encourage affordability and availability of 4G LTE devices, enhance competition by facilitating widespread deployment of broadband services and consumer choice, and offer consumers greater roaming opportunities among 700 MHz operators.³

With respect to the technical issues raised by Verizon, the record in the AT&T-Qualcomm transaction has confirmed that the interference concerns are myths.⁴ A group of Lower A Block

¹ Letter of Tamara Preiss, Vice President, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, FCC, filed in RM-11592 (Jan. 25, 2012) [hereinafter Verizon *ex parte*].

² The interoperability proceeding includes the Good Faith Purchasers Alliance Petition, the recent AT&T-Qualcomm transaction, and the forthcoming NPRM. RCA has requested that the FCC incorporate into the record developed from the NPRM the documents filed in the AT&T – Qualcomm transaction and the Good Faith Purchasers Alliance Petition. Letter of Rebecca M. Thompson, General Counsel, RCA, to Marlene H. Dortch, Secretary, FCC, filed in WT Docket No.s 05-265, 06-150, 11-18, 11-186, 12-4; RM-11497; RM-11592 (Jan. 18, 2012).

³ *Id.*

⁴ Letter of Michele C. Farquhar, Counsel to Vulcan Wireless, Hogan Lovells, to Marlene H. Dortch, Secretary, FCC, filed in WT Docket No. 11-18, RM-11592 (Dec. 15, 2011); Letter of Michele C. Farquhar, Counsel to Vulcan Wireless, Hogan Lovells, to Marlene H. Dortch, Secretary, FCC, filed in WT Docket No. 11-18, RM-11592 (Dec. 14, 2011). Even AT&T has agreed not to oppose interoperability in the lower 700 MHz spectrum if there are no interference concerns with Channel 51 and the E Block. Letter of Joan Marsh, Vice President – Federal Regulatory, AT&T, to Marlene H. Dortch, Secretary, FCC, filed in WT Docket No. 11-18 (Dec. 22, 2011) at 1.

licensees recently conducted, in a real world setting, an engineering test of AT&T's underlying assumptions and claims regarding the need to bifurcate Band Class 17 from the original Band Class 12.⁵ The study found that AT&T's underlying claims and assumptions made during the 3GPP process were incorrect. Specifically, the study found that neither the high power E Block transmissions nor Channel 51 transmissions would present an interference threat to AT&T's LTE devices operating in Band Class 12.⁶ In fact, AT&T's LTE devices currently receive and manage signal level disparities from within the B and C Blocks that are greater than those which would need to be accounted for by restoring the original Band Class 12.⁷ RCA is confident that the forthcoming rulemaking will prove interoperability is both technically possible and desirable. Additionally, the rulemaking will show that interoperability must be implemented before the end of 2012 if competitive carriers are to offer customers access to relevant services on a timely basis.

RCA also agrees with Verizon that Commission efforts to resolve these interference claims will facilitate the development of devices in the Lower 700 MHz spectrum band.⁸ RCA, however, disagrees with Verizon's claim that an FCC requirement is unnecessary. AT&T's manipulation of the 3GPP process proves how a single dominant carrier can and will leverage its market power for anticompetitive ends.⁹ As Vulcan Wireless described, AT&T has used its market power as the only purchaser of Band Class 17 equipment to manipulate and mislead 3GPP into the belief that a subset of Band Class 12 would ameliorate interference concerns. In doing so, AT&T effectively blocked Lower A Block licensees from competing in the 4G LTE market. An FCC requirement to prevent AT&T from further using its monopsony power to impede Lower A Block licensees from deploying 4G LTE mobile broadband throughout the U.S., particularly in rural and regional parts of the country, is long overdue.

Finally, while we continue to contest the validity of Verizon's claim that "Lower and Upper 700 MHz bands cannot be incorporated into a single duplexer," we agree it is appropriate to consider this technical question in a proceeding separate from the more urgent matter of ending further harms to the Lower 700 MHz market and Lower A Block licensees.

⁵ Letter of Michele C. Farquhar, Counsel to Vulcan Wireless, Hogan Lovells, to Marlene H. Dortch, Secretary, FCC, filed in WT Docket No. 11-18, RM-11592 (Nov. 30, 2011) (presentation to the Office of Engineering and Technology and the Wireless Telecommunications Bureau).

⁶ Letter of Michele C. Farquhar, Counsel to Vulcan Wireless, Hogan Lovells, to Marlene H. Dortch, Secretary, FCC, filed in WT Docket No. 11-18, RM-11592 (Dec. 6, 2011).

⁷ *Id.*

⁸ See Verizon *ex parte* at 2.

⁹ Letter of Michele C. Farquhar, Counsel to Vulcan Wireless, Hogan Lovells, to Marlene H. Dortch, Secretary, FCC, filed in WT Docket No. 11-18, RM-11592 (Dec. 14, 2011) (including analysis detailing "coercive and potentially deceptive practices in the industry's standards body" by AT&T). The FCC itself expressed concerns about AT&T's dominance and the effect on the Lower 700 MHz market. See *In re* Application of AT&T Inc. and Qualcomm Incorporated For Consent To Assign Licenses and Authorizations, *Order*, WT Docket No. 11-18, ¶¶ 66–67 (Dec. 22, 2011).

This *ex parte* notification is being filed electronically with your office pursuant to Section 1.1206 of the Commission's Rules.

Sincerely,

/s/

Rebecca Murphy Thompson
General Counsel

cc: Rick Kaplan
Jim Schlichting
Nese Guendelsberger
Tom Peters
Paul Murray
Nicole McGinnis
Tamara Preiss